

Portugal

Section 1. Respect for the Integrity of the Person, Including Freedom from:

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

There were approximately 50,000 law enforcement officials, including police and prison guards. The Ministries of Internal Administration and Justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the Foreigners and Borders Service (SEF), the PSP, and the GNR. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The Judiciary Police are responsible for criminal investigations and report to the Ministry of Justice.

Civilian authorities maintained effective control over the SEF, the PSP, and the GNR, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. An independent ombudsman chosen by parliament and the IGAI investigates complaints of abuse or mistreatment by police. However, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and the Ministry of Internal Administration.

Arrest Procedures and Treatment While in Detention

The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and authorities generally followed the guidelines. Persons can be arrested only on a judicial warrant, except that law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody. Authorities informed detainees promptly of charges against them.

A suspect may not be held for more than 48 hours without appearing before an investigating judge. Under the law the investigating judge determines whether an arrested person should be detained, released on bail, or released outright.

Investigative detention for most crimes is a maximum of four months; if a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes, such as murder, armed robbery, terrorism, violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

Bail exists, but detainees are not released on their own recognizance. Depending on the severity of the crime, a detainee's

release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police did not always inform detainees of their rights. In the report on its 2008 visit, the CPT stated that “facts found during the visit...clearly indicate that few detained persons have an effective right of access to a lawyer during police custody.” The government assumed legal costs for indigent detainees.

Pretrial Detention: Lengthy pretrial detention remained a problem. As of December 31, 2,688 individuals (20 percent of the prison population) were in pretrial detention, an increase from the previous year. The average detention was eight months; pretrial detainees spent an average of six months to a year in incarceration. Lengthy pretrial detention was usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. If a detainee is convicted, pretrial detention counts against his prison sentence. If found innocent, a detainee has the right to request compensation.

Amnesty: In December the president granted one reduction of prison sentence and one revocation of the penalty of expulsion from the country for one foreigner. There were 205 requests.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

Observers, including the media, business corporations, and legal observers, estimated the backlog of cases awaiting trial to be at least a year.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent and have the right to be informed promptly and in detail of the charges (with free interpretation when necessary). Trials are public. A suspect in investigative detention must be brought to trial within 14 months of being charged formally. If a suspect is not in detention, the law specifies no deadline for going to trial. Jury trials are rare in criminal cases. When the crime in question is punishable by a prison sentence whose maximum limit is more than eight years, either the public prosecutor or the defendant may request a jury trial. Juries consist of three judges and four public members.

Defendants have the right to be present at their trial and to consult with an attorney upon arrest, at government expense if necessary. Defendants have adequate time and facilities to prepare their defense. They have access to government-held evidence, can confront and question witnesses against them, and present witnesses and evidence on their own behalf. Defendants cannot be compelled to testify or confess guilt. Those convicted have the right of appeal. The law extends these rights to all citizens and foreign residents.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. All persons, both citizens and foreign residents, have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation, and they can appeal decisions to the European Court of Human Rights (ECHR). Civil cases do not have jury trials. Besides judicial remedies, administrative recourse exists for alleged wrongs. The government complied with rulings against it in domestic judicial and administrative fora.

Regional Human Rights Court Decisions

The country is subject to the ECHR under the European Convention on Human Rights. It complied promptly with the court's decisions.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, sexual orientation, language, and social status, and the government effectively enforced these prohibitions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution and the law prohibit discrimination, including based on sexual orientation and gender identity. However, the law bars lesbian, gay, bisexual, and transgender couples and single women from receiving medically assisted reproductive health care applied by government-funded health-care providers.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Promotion of Acts of Discrimination

No information in this sub-section. Please see the full country report for more.